

## **ALTERNATIVE DISPUTE RESOLUTION RULES**

### **Rule A. Applications and list of mediators**

Any individual who fulfills the qualifications for mediator established by the Supreme Court of Indiana may submit an application to the circuit or any superior court to be placed upon the list of mediators. The application shall include the following information:

1. mediator's name, address and telephone number;
2. county of residence;
3. information about co-mediator if applicable;
4. type of cases which the mediator is competent to mediate;
5. any known limitations on referrals, such as disqualification because of marital relationship or employment, etc.;
6. statement of mediation training;
7. statement of professional background, including attorney number and date of admission to bar, and/or educational requirements for domestic mediation;
8. statement of use of effective conflicts-checking system;
9. such other information on background and mediation training relevant to the court's review of the application.

A sample form is provided as Appendix A.

The court shall review each application and determine the eligibility of the individual to be included on the list of mediators approved by the court.

The court administrator shall maintain a comprehensive list of all court- approved mediators for the county. A copy of the list of mediators shall be available to the public for inspection in the Office of the Clerk of Lake County.

The court administrator shall also maintain a comprehensive list of lawyers engaged in the practice of law in the county who are willing to serve as arbitrators. A copy of the list of arbitrators shall likewise be available to the public for inspection in the Office of the Clerk of Lake County.

## Rule B. Civil cases

1. Definition. For the purposes of this rule, "alternative dispute resolution" and "ADR" shall mean mediation and/or mini-hearings. This rule does not affect the parties' rights to agree to arbitration as provided by the ADR Rules of the Supreme Court of Indiana.

2. Case Selection and Objections. The court may order the parties to mediation or mini-hearing upon the occurrence of any of the following:

(a) Any party's written request for mediation or mini-hearing any time after the expiration of the fifteen (15) day period allowed for peremptory change of venue;

(b) At any time following the filing of the claim for relief if all of the parties file a written stipulation therefor; or

(c) More than ninety (90) days have elapsed since the initiation of the claim and the case has not been scheduled for a pretrial conference.

In determining whether a case is appropriate for a judicial referral to ADR, the court may consider such factors as:

(i) whether the case has been pending more than 180 days;

(ii) whether a pretrial conference has been requested;

(iii) whether the case is eligible for dismissal pursuant to TR 41(E);

(iv) whether the case is set for trial.

Nothing in this rule shall be interpreted to constrain or otherwise limit the court from referring a case to ADR at such other time as the court deems appropriate.

Any party may object to an order for mediation or mini-hearing by filing a written objection specifying the grounds for the objection within fifteen (15) days of the date of the order referring the case to mediation or mini-hearing, as provided in ADR Rule 2.2. Any response to the objection must be filed within ten (10) days of the service of the objection.

3. Completion of Mediation. The mediator and the parties shall make a good faith effort to complete the mediation process within ninety (90) days from the date of the order to engage in ADR, unless specifically ordered otherwise. In the event mediation is not complete within that time, the mediator shall file a report with the court as to the current status of the mediation and the projected date of completion of the mediation.

If the mediation is complete, the mediator shall file the agreement and report as required by ADR Rule 2.7(E) within 15 days of completion of the mediation. However, if the

parties agree, a party may file the agreement in place of the mediator. If a party is to file the agreement, that party shall be identified in the mediator's report.

4. Payment of the Mediator's Fees. Unless otherwise specifically set forth in the order referring the case to mediation, or unless otherwise agreed by the parties, the mediator's fees shall be paid in the following proportions:

one-third ( 1/3 ) by the plaintiff or plaintiffs;

one-third ( 1/3 ) by the defendant or defendants;

one-third ( 1/3 ) by the intervenor or third party.

In the case of multiple plaintiffs, defendants or intervenors, the mediator's fee shall be apportioned equally among the number of plaintiffs, defendants or intervenors, unless they shall agree otherwise.

5. Written Agreements. All agreements which resolve issues shall be reduced to writing and signed by all parties and their counsel, and shall be submitted to the court with the mediator's report, or as soon thereafter as is practicable.

6. Parties to Attend. In all non-family cases, the attorney(s) who will try the case and the parties shall attend the mediation conference. A corporate party shall send a corporate representative with full authority to settle the case. If insurance is involved in the matter, the insurance carrier shall send a company representative who has full and absolute authority to resolve the matter for an amount which is the lesser of the policy limits or the most recent demand of the adverse party. An insurance representative may be available by phone during the mediation conference in fulfillment of this requirement.

#### Rule C. Domestic relations cases

1. Case Selection. In applying the Alternative Dispute Resolution Rules, mediation is the appropriate method of court-ordered dispute resolution in domestic relations cases.

2. Time for Filing Motions and Stipulations. Either party may file a motion for referral to mediation at any time during the pendency of the case, from the time of filing and thereafter until the final hearing. The parties may file a joint application for referral to mediation at any time during the pendency of the case.

In determining whether a case is appropriate for judicial referral to ADR, the court may consider such factors as:

(a) whether the time for exchange of financial disclosure information has passed;

(b) when time for a contested hearing has been requested on the court's calendar;

(c) whether the case involves post-decree issues.

Nothing in this rule shall be interpreted to constrain or otherwise limit the court from referring a case to ADR at such other time as the court deems appropriate.

3. Completion of Mediation. The mediator and the parties shall make a good faith effort to complete the mediation process within sixty (60) days from the date of the order to engage in ADR. In the event that mediation is not complete within that time, the mediator shall file a report with the court as to the current status of the mediation and the projected date of completion of the mediation. If the mediation is complete, the mediator shall file the agreement and report as required by ADR Rule 2.7(E). However, if the parties so agree, a party may file the agreement separately, and that party shall be identified in the mediator's report.

The mediator's report shall also include the parties' agreement as to a date certain for filing their agreement.

4. Payment of Mediator's Fees. Unless otherwise specifically set forth in the order referring the case to mediation, or unless otherwise agreed by the parties prior to the mediation conference, the mediator's fees shall be paid in the following proportions:

one-half ( 1/2 ) by the petitioner;

one-half ( 1/2 ) by the respondent.

5. Parties to Attend. In domestic relations cases, the attendance of the parties' counsel is not required at every session. If counsel choose not to attend, they shall be given the opportunity to review and discuss any settlement proposal made at a mediation conference.

## APPENDIX A. MEDIATOR'S APPLICATION FOR CIVIL/DOMESTIC CASES

### MEDIATOR'S APPLICATION FOR CIVIL/DOMESTIC CASES

(strike one if necessary)

I, \_\_\_\_\_, hereby apply to be placed on the court's listing of mediators, and include the following information pursuant to ADR Rule 2.5:

1. NAME AND ADDRESS.

Name:

\_\_\_\_\_

Business

address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Resident of \_\_\_\_\_ County

2. CO-MEDIATOR. (check one)

This is not a joint application \_\_\_\_\_

This is a joint application \_\_\_\_\_

My co-mediator has also filed an application with the court, and his/her  
name \_\_\_\_\_ is

\_\_\_\_\_.

3. TYPES OF CASES. In accordance with ADR Rule 2.3, I am applying to mediate the following types of cases:

CIVIL:

\_\_\_\_\_ CONTRACT

\_\_\_\_\_ TORT

\_\_\_\_\_ PROBATE

\_\_\_\_\_ all civil cases

\_\_\_\_\_ PROBATE

\_\_\_\_\_ PROPERTY

\_\_\_\_\_ OTHER (list)

DOMESTIC RELATIONS:

\_\_\_\_ CHILD CUSTODY ONLY      \_\_\_\_ CHILD SUPPORT ONLY  
\_\_\_\_ PROPERTY DIVISION      \_\_\_\_ OTHER (list)  
\_\_\_\_ COMPLETE DIVORCE--NO CHILDREN  
\_\_\_\_ COMPLETE DIVORCE WITH CHILDREN

4. LIMITATION ON REFERRALS. I am unable to accept referrals pursuant to ADR Rule 2.5(A)(1) when one of the following attorneys is an attorney of record in the case, because I am employed by them OR related to them:  
\_\_\_\_\_.

5. MEDIATION TRAINING. I have completed the following total number of hours of mediation training:

(a) CORE MEDIATION TRAINING. I have attended a forty (40) hour minimum mediation training course certified as appropriate by the Indiana Commission for Continuing Legal Education.

Number of hours: \_\_\_\_\_ Dates of training: \_\_\_\_\_ Trainers:  
\_\_\_\_\_  
Title of seminar: \_\_\_\_\_ Location of seminar: \_\_\_\_\_  
Sponsor: \_\_\_\_\_  
\_\_\_\_\_

Such training was: pre-certified by the commission; or certified after the fact by the commission.

(Attach copy of certificate)

6. PROFESSIONAL BACKGROUND:

CIVIL: I am an attorney in good standing in Indiana. I was admitted to the Indiana bar on \_\_\_\_\_, and my attorney number is \_\_\_\_\_.

DOMESTIC RELATIONS: I am an attorney in good standing in Indiana. I was admitted to the Indiana bar on \_\_\_\_\_, and my attorney number is \_\_\_\_\_.

AND/OR

I have a bachelor's degree from the following accredited institution of higher learning:

_____ degree _____	_____ earned:
_____ Date _____	_____ conferred:
_____ Major:	_____
_____ Other _____ graduate _____	_____ degrees:
_____	

7. CONFLICT-CHECKING SYSTEM: I utilize an effective system to identify potential conflicts of interest, as required by ADR Rule 2.8.

8. DOMESTIC MEDIATOR KNOWLEDGE REQUIREMENTS. I have knowledge (or my mediation team has combined knowledge) of all of the following to the extent practicable, as required by ADR Rule 2.5(C)(2). I personally have knowledge of the following:

\_\_\_\_\_ Indiana judicial system \_\_\_\_\_ procedures used in domestic relations cases \_\_\_\_\_ community resources for client referral \_\_\_\_\_ stages of child development \_\_\_\_\_ clinical issues relating to children \_\_\_\_\_ the effects of divorce on children \_\_\_\_\_ family systems theory

9. FEES. My fee or fee range for civil matters is \_\_\_\_\_  
\_\_\_\_\_.  
\_\_\_\_\_.

My fee or fee range for domestic matters is \_\_\_\_\_  
\_\_\_\_\_.  
\_\_\_\_\_.

\_\_\_\_\_  
signature

\_\_\_\_\_  
\_ date.

(VERIFICATION)